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AUG 1 3 54 PM '05

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DOCKET FILE 03-101 / 0115-1
DISPATCH

DA 05-2197

Released: July 28, 2005

WIRELINE COMPETITION BUREAU APPROVES PLAN TO REFUND INTERSTATE ACCESS CUSTOMERS OF BELL SOUTH FOR 1993 AND 1994 TARIFF PERIODS

CC Docket Nos. 93-193 and 94-65

On July 30, 2004, the Commission released the *Add-Back Tariff Investigation Order*, concluding its investigation of the 1993 and 1994 interstate access tariffs of price cap local exchange carriers (LECs) that implemented a sharing or lower formula adjustment.¹ The Commission found unjust and unreasonable the 1993 annual access tariffs of price cap LECs that implemented a sharing or lower formula adjustment in their 1992 Price Cap Indexes (PCIs) and that failed to apply add-back in computing their 1992 earnings and rates of return and resulting 1993 PCIs.² The Commission made the same findings for the 1994 interstate access tariffs of price cap LECs that implemented a sharing or lower formula adjustment in their 1993 PCIs.³ Finally, the Commission ordered affected price cap LECs to: (1) recalculate their 1992 and 1993 earnings and rates of return, making an add-back adjustment; (2) determine the appropriate sharing or lower formula adjustment to their PCIs for the subsequent tariff year; (3) compute the amount of any resulting access rate decrease; and (4) submit a plan for refunding the amounts owed to customers plus interest as a result of any such rate decrease.⁴

The Wireline Competition Bureau (Bureau) disapproved the original refund plan filed by BellSouth Telecommunications, Inc. (BellSouth).⁵ BellSouth provided a further explanation of its refund plan calculations.⁶ Upon review of this explanation, the Bureau approved BellSouth's refund plan in the

¹ 1993 Annual Access Tariff Filings, CC Docket No. 93-193, 1994 Annual Access Tariff Filings, CC Docket No. 94-65, Order, 19 FCC Rcd 14949 (2004) (*Add-Back Tariff Investigation Order*).

² *Id.* at para. 1.

³ *Id.*

⁴ *Id.* at 14961, para. 29.

⁵ 1993 Annual Access Tariff Filings, CC Docket No. 93-193, 1994 Annual Access Tariff Filings, CC Docket No. 94-65, Order, 20 FCC Rcd 6077, 6084-85, 6089, paras. 14, 26 (WCB 2005) (*Add-Back Refund Order*); see also BellSouth Refund Plan, CC Docket Nos. 93-193, 94-65 (filed Aug. 30, 2004).

⁶ Letter from Mary L. Henze, Assistant Vice President, Federal Regulatory, BellSouth, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 93-193, 94-65 (filed Mar. 29, 2005).

Supplemental Add-Back Refund Order, and directed it to make refunds as further specified in that order and the *Add-Back Refund Order*.⁷

In the *Add-Back Refund Order*, the Bureau recognized that, due to factors such as bankruptcy, changes in ownership, or simple passage of time, some BellSouth customers may no longer be readily identifiable.⁸ Further, the Bureau did not require BellSouth to identify and notify customers that may be due refunds of less than \$100. Customers that BellSouth cannot identify and customers due refunds of less than \$100 may, however, obtain refunds through the following procedure, as specified in the *Add-Back Refund Order*: For at least 60 days after this notice is published in the Federal Register, the BellSouth must post this notice on its company web sites that are most often consulted by its interstate access customers. BellSouth must also provide an address to which former access customers may submit refund claims by a specified date that is at least 60 days after the refund notice is first posted.⁹

For further information, contact Margaret Dailey of the Pricing Policy Division, Wireline Competition Bureau at (202) 418-1520.

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⁷ See 1993 *Annual Access Tariff Filings*, CC Docket No. 93-193, 1994 *Annual Access Tariff Filings*, CC Docket No. 94-65, Order, DA No. 05-2029, at paras. 4, 6, 7 (WCB rel. July 15, 2005) (*Supplemental Add-Back Refund Order*).

⁸ See *Add-Back Refund Order*, 20 FCC Rcd at 6087-88, paras. 21-22.

⁹ *Id.* at 6088, para. 22.